

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

THE STATE OF LOUISIANA,
By and through its Attorney General, JEFF
LANDRY, et al.,

PLAINTIFFS,

v.

JOSEPH R. BIDEN, JR. in his official
capacity as President of the United States, et
al.,

DEFENDANTS.

CIVIL ACTION NO. 1:21-cv-3867-DDD-JPM

**NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF PLAINTIFF
STATES' MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff States respectfully notify the Court of recent authority supporting their pending motion for a preliminary injunction. On November 30, 2021, the United States District Court for the Eastern District of Kentucky preliminarily enjoined the Contractor Vaccine Mandate—the same mandate under review here—in the States of Kentucky, Ohio, and Tennessee. The opinion enjoining the Mandate is attached as Exhibit A. Four points from that injunction opinion bear emphasis here.

First, the court held that the plaintiffs—the States of Kentucky, Ohio, and Tennessee—had standing to challenge the Contractor Vaccine Mandate based on special solicitude, *parens patriae*, and “the fact that governmental agencies are already requesting that current contracts ... comply with the vaccine mandate[, which] indicates a threat of future harm to the Plaintiffs.” Ex. A at 8.

Second, the court held that the plaintiffs demonstrated a likelihood of success on the merits because the Mandate exceeds the Executive Branch’s authority. Ex. A at 13 (“[I]t strains credulity

that Congress intended the FPASA, a procurement statute, to be the basis for promulgating a public health measure such as mandatory vaccination.”). The court specifically reasoned that Defendants’ interpretation of FPASA’s nexus requirement would violate the major questions doctrine. Ex. A at 13 (“If a vaccination mandate has a close enough nexus to economy and efficiency in federal procurement, then the statute could be used to enact virtually any measure at the president’s whim under the guise of economy and efficiency.”).

Third, the court held that the Mandate raises serious questions under the Competition in Contracting Act, the Nondelegation Doctrine, and the Tenth Amendment. Ex. A at 15-20.

Finally, the court concluded by finding that a preliminary injunction is appropriate because the loss of constitutional freedoms, the divestment of State police power, and nonrecoverable costs of compliance caused by the Mandate are all irreparable injuries. Ex. A at 26-27.

Respectfully submitted,

Dated: December 3, 2021

/s/ Elizabeth B. Murrill

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**Pro Hac Vice admission application
forthcoming*